

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

JERONE MCDUGALD,	:	Case No. 1:19-cv-107
	:	
Plaintiff,	:	Judge Timothy S. Black
	:	
vs.	:	Magistrate Judge Stephanie K.
	:	Bowman
RONALD ERDOS,	:	
	:	
Defendant.	:	

**DECISION AND ENTRY  
ADOPTING THE REPORTS AND RECOMMENDATIONS OF  
THE UNITED STATES MAGISTRATE JUDGE (Docs. 2, 5)**

This case is before the Court pursuant to the Order of General Reference to United States Magistrate Judge Stephanie K. Bowman. On February 11, 2019, Plaintiff commenced this case by filing a motion to proceed *in forma pauperis*. (Doc. 1). Then, on February 28, 2019, the Magistrate Judge submitted a Report and Recommendation, recommending that the Court deny Plaintiff's motion to proceed *in forma pauperis*, because Plaintiff had violated 28 U.S.C. § 1915(g)'s three strikes rule. (Doc. 2). Thereafter, Plaintiff filed both a motion to supplement his complaint (Doc. 3) and untimely objections to the Report and Recommendation (Doc. 4).

On February 10, 2020, the Magistrate Judge reviewed the pleadings filed with the Court and submitted an Order and Report and Recommendation, which: (1) granted Plaintiff's motion to supplement his complaint; but (2) recommended that the Court nonetheless deny Plaintiff's motion to proceed *in forma pauperis*. (Doc. 5). The Magistrate Judge reasoned that, even when Plaintiff's supplemental allegations were

considered, Plaintiff had failed to plead facts showing that he was excepted from 28 U.S.C. § 1915(g)'s three strikes rule. (*Id.*) Plaintiff did not file any objections, timely or otherwise, to the Order and Report and Recommendation.

As required by 28 U.S.C. § 636(b) and Fed. R. Civ. P. 72(b), the Court has reviewed the comprehensive findings of the Magistrate Judge and considered *de novo* all of the filings in this matter. Upon consideration of the foregoing, the Court finds that the Reports and Recommendations (Docs. 2, 5) should be and are hereby adopted in their entirety.<sup>1</sup>

Accordingly:

1. The Reports and Recommendations (Docs. 2, 5) are **ADOPTED**;
2. Plaintiff's objections (Doc. 4) are **OVERRULED**;
3. Plaintiff's motion to proceed *in forma pauperis* (Doc. 1) is **DENIED**;
4. Within thirty (30) days of the date of this Order, Plaintiff **SHALL** pay the full \$400 fee (\$350 filing fee plus \$50 administrative fee) required to commence this action;

---

<sup>1</sup> Plaintiff's objections to the original Report and Recommendation (Doc. 4) are not well-taken. In essence, Plaintiff argues that, regardless of whether he has violated 28 U.S.C. § 1915(g)'s three strikes rule, the Court should allow him to proceed *in forma pauperis*, because he is in imminent danger of physical injury. (Doc. 4 at 1–3). 28 U.S.C. § 1915(g) does contain a safety valve, which allows a plaintiff to file a complaint *in forma pauperis*, when the plaintiff faces imminent danger. *Bloodworth v. Mohr*, No. 1:16-cv-1049, 2016 WL 6829647, at \*2 (S.D. Ohio Nov. 21, 2016). However, as the Magistrate Judge has explained in the Order and Report and Recommendation, even when Plaintiff's supplemental allegations are considered, Plaintiff has failed to "allege particular facts showing any immediate or impending serious physical injury in existence at the time he commenced this action . . . ." (Doc. 5 at 1). Accordingly, Plaintiff does not qualify for the "imminent danger" exception. (*Id.*) The Court emphasizes that Plaintiff is a serial litigator, and the Court's ruling in this case is consistent with the Court's rulings in Plaintiff's other cases. *See, e.g., McDougald v. Erdos*, No. 1:17-CV-464, 2019 WL 1756378 (S.D. Ohio Feb. 26, 2019) (summarizing Plaintiff's litigation history in this Court and motions for leave to proceed *in forma pauperis*), *report and recommendation adopted*, No. 1:17-CV-464, 2019 WL 1755527 (S.D. Ohio Apr. 19, 2019). Plaintiff's objections (Doc. 4) are **overruled**.

5. Plaintiff **SHALL** take notice that his failure to pay the full \$400 fee within thirty (30) days of the date of this Order will result in the dismissal of his action; and
6. Pursuant to 28 U.S.C. § 1915(a)(3), the Court certifies that an appeal of this Order would not be taken in good faith and, therefore, the Court **DENIES** Plaintiff leave to appeal *in forma pauperis*.

**IT IS SO ORDERED.**

Date: 5/13/2020

s/Timothy S. Black  
Timothy S. Black  
United States District Judge